

**WRIGHT, FINLAY & ZAK, LLP**

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Attorney for GREEN TREE LOAN SERVICING LLC

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON (TACOMA)**

JAMES A. BIGELOW

Plaintiff,

vs.

NORTHWEST TRUSTEE SERVICES, INC.;  
GREEN TREE SERVICING, LLC; MORTGAGE  
ELECTRONIC REGISTRATION SYSTEMS,  
INC.; and DOE DEFENDANTS 1-20,

Defendants.

GREEN TREE SERVICING, LLC,

Counter-Plaintiff,

vs.

JAMES A. BIGELOW and CAROLYN  
BIGELOW, husband and wife; and ALL  
PERSONS OR PARTIES UNKNOWN  
CLAIMING ANY RIGHT, TITLE, ESTATE,  
LIEN, OR INTEREST IN THE PROPERTY  
DESCRIBED IN THE COMPLAINT HEREIN,

Counter-Defendants.

Case No. 3:14-cv-05798 BHS

**SUPPLEMENTAL DECLARATION  
IN SUPPORT OF COUNTERCLAIM  
AND THIRD PARTY COMPLAINT  
FOR JUDICIAL FORECLOSURE**

///

///

1 I, Edward Born, declare as follows:

2 1. I am an Assistant Vice President for GREEN TREE LOAN SERVICING LLC  
3 ("GREEN TREE"). I am authorized to make this Affidavit for and on behalf of GREEN TREE.

4 2. GREEN TREE maintains a computer database (the "Loan Records") of acts,  
5 transactions, payments, communications, escrow account activity, disbursements, events, and  
6 analyses (the "Loan Transactions") with respect to the mortgage loans which GREEN TREE  
7 services. The information described herein and referenced below is found in the business  
8 records of said servicing agent. The entries in those records are made at the time of the events  
9 and conditions they describe either by people with first-hand knowledge of those events and  
10 conditions or from information provided by people with such first-hand knowledge. Recording  
11 such information is a regular practice of the servicing agent's or Plaintiff's regularly conducted  
12 business activities. I have access to the Loan Records with respect to the subject loan, and have  
13 knowledge of how they are maintained. Based upon my review of those records I have gained  
14 knowledge of the facts set forth herein and, if called upon as a witness to testify, I could and  
15 would competently testify as to those facts under penalty of perjury.

16 3. The Loan Records reflect that on or about April 24, 2007, Plaintiff James Bigelow  
17 ("Bigelow" herein) and spouse Carolyn Bigelow ("Borrowers" collectively) entered into an  
18 agreement with Pierce Commercial Bank for a loan in the principal amount of \$233,899.00. This  
19 loan is memorialized by an "Interest Only Fixed Rate Note" executed on the same day (the  
20 "Note") and is secured by a Deed of Trust recorded with the Thurston County Auditor on April  
21 27, 2007 as Instrument No. 3922368. A Corporate Assignment of Deed of Trust which  
22 conveyed, granted, sold, assigned transferred and/or set over the interest secured by the Deed of  
23 Trust to GREEN TREE was recorded with the Thurston County Auditor on April 20, 2012 as  
Instrument No. 4261697.

24 4. The Loan Records reflect that Borrowers defaulted under the terms of the Note  
25 and Deed of Trust with that monthly installment payment due for November 1, 2011.  
26  
27  
28

1           5.       The Loan Records reflect that on or about DECEMBER 1, 2011 the custodian of  
2 GREEN TREE obtained possession of the Note; the Note was and is still endorsed in blank. A  
3 true and correct copy of the Note, which is in possession of GREEN TREE or an agent thereof, is  
4 attached hereto as Exhibit "A".


5           6.       The Loan Records reflect that as of the date of execution of this document  
6 GREEN TREE, by and through its custodian, is still the legal holder of the Note and has not  
7 assigned or transferred the Note to any other person or entity.

8           7.       The Loan Records reflect that Green Tree was in possession of the Note when its  
9 Notice of Default was issued on May 10, 2012, when the Notice of Trustee's Sale was recorded  
10 on April 24, 2014, and also when the SUPPLEMENTAL DECLARATION IN SUPPORT OF  
11 COUNTERCLAIM AND THIRD PARTY COMPLAINT FOR JUDICIAL FORECLOSURE  
12 was filed with this Court.

13           8.       The Loan Records reflect that the Note would have been endorsed by Pierce  
14 Commercial Bank in or about May, 2007.

15           I hereby declare under the penalty of perjury under the laws of the State of Washington  
16 that the foregoing statement is true and correct.

17 DATED this 27<sup>th</sup> day of February, 2015, at Tempe, AZ.

18  
19   
20 Signature

21 Printed Name: Edward Born

22 Title: Assistant Vice President  
23  
24  
25  
26  
27  
28

# **EXHIBIT A**

MIN: [REDACTED]

Loan Number: [REDACTED]

**INTEREST ONLY FIXED RATE NOTE**APRIL 24, 2007  
[Date]PUYALLUP  
[City]WASHINGTON  
[State]10018 CASCADIAN AVENUE SE, YELM, WASHINGTON 98597  
[Property Address]**1. BORROWER'S PROMISE TO PAY**

In return for a loan that I have received, I promise to pay U.S. \$ 233,899.00 (this amount is called "principal"), plus interest, to the order of the Lender. The Lender is PIERCE COMMERCIAL BANK, A WASHINGTON CORPORATION

I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

**2. INTEREST**

Interest will be charged on unpaid principal until the full amount of principal has been paid. I will pay interest at a yearly rate of 6.875 %.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

**3. PAYMENTS****(A) Time and Place of**

I will make a payment every month. This payment will be for interest only for the first 120 months, and then will consist of principal and interest.

I will make my monthly payment on the 1st day of each month beginning on JUNE 1, 2007. I will make these payments every month until I have paid all of the Principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date, and if the payment includes both principal and interest it will be applied to interest before Principal. If, on MAY 1, 2037 I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at PO BOX 110488, TACOMA, WASHINGTON 98411

or at a different place if required by the Note Holder.

**(B) Amount of Monthly Payments**

My monthly payment will be in the amount of U.S. \$ 1,340.05 for the first 120 months of this Note, and thereafter will be in the amount of U.S. \$ 1,795.91. The Note Holder will notify me prior to the date of change in monthly payment.

**4. BORROWER'S RIGHT TO PREPAY**

I have the right to make payments of principal at any time before they are due. A payment of principal only is known as a "prepayment." When I make a prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a prepayment if I have not made all the monthly payments due under the Note.

I may make a full prepayment or partial prepayments without paying a prepayment charge. The Note Holder will use my prepayments to reduce the amount of principal that I owe under this Note. However, the Note Holder may apply my prepayment to the accrued and unpaid interest on the prepayment amount, before applying my prepayment to reduce the principal amount of the Note. If I make a partial prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes. However, if the partial prepayment is made during the period when my monthly payments consist only of interest, the amount of the monthly payment will decrease for the remainder of the term when my payments consist only of interest as well as during the time that my payments consist of principal and interest. If the partial prepayment is made during the period when my payments consist of principal and interest, the amount of my monthly payment will not decrease; however, the principal and the interest required under this Note will be paid prior to the Maturity Date.

**5. LOAN CHARGES**

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the principal I owe under this Note or by making a direct payment to me. If a refund reduces principal, the reduction will be treated as a partial prepayment.

**EXHIBIT A**

**6. BORROWER'S FAILURE TO PAY AS REQUIRED****(A) Late Charge for Overdue Payments**

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment. I will pay this late charge promptly but only once on each late payment.

**(B) Default**

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

**(C) Notice of Default**

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

**(D) No Waiver By Note Holder**

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

**(E) Payment of Note Holder's Costs and Expenses**

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

**7. GIVING OF NOTICES**

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

**8. OBLIGATIONS OF PERSONS UNDER THIS NOTE**

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

**9. WAIVERS**

I and any other person who has obligations under this Note waive the rights of presentment and notice of dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

**10. UNIFORM SECURED NOTE**

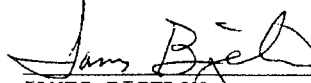
This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:


If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

*JS*  
*CB*

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

  
JAMES BIGELOW (Seal)  
-Borrower

  
CAROLYN BIGELOW (Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

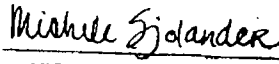
\_\_\_\_\_  
(Seal)  
-Borrower

[Sign Original Only]

PAY TO THE ORDER OF  
COUNTRYWIDE HOME LOANS, INC  
WITHOUT RECOURSE  
COUNTRYWIDE BANK, FSB  
FKA COUNTRYWIDE BANK, N.A.

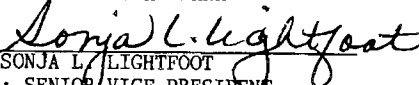
BY   
LAURIE MEDER  
SENIOR VICE PRESIDENT

PAY TO THE ORDER OF  
WITHOUT RECOURSE  
COUNTRYWIDE HOME LOANS, INC.

BY:   
MICHELE SJOLANDER  
EXECUTIVE VICE PRESIDENT

PAY TO THE ORDER OF COUNTRYWIDE BANK, N.A., WITHOUT RECOURSE

PIERCE COMMERCIAL BANK

BY:   
SONJA L. LIGHTFOOT  
ITS: SENIOR VICE PRESIDENT

**DECLARATION OF SERVICE**

The undersigned declares as follows:

On March 2, 2015, I served the foregoing documents: **SUPPLEMENTAL  
DECLARATION IN SUPPORT OF COUNTERCLAIM AND THIRD PARTY  
COMPLAINT FOR JUDICIAL FORECLOSURE** on the following individuals by U.S.  
Mail, Postage Prepaid:

JAMES A. BIGELOW  
10018 CASCADIAN AVENUE SE  
YELM, WA 98597  
*PRO SE COUNTER-DEFENDANT*

CAROLYN BIGELOW  
10018 CASCADIAN AVENUE SE  
YELM, WA 98597  
*PRO SE COUNTER-DEFENDANT*

CURRENT OCCUPANT  
10018 CASCADIAN AVE SE  
YELM WA 98597

JOSEPH H. MARSHALL, SBN 29671  
RCO LEGAL, P.S.  
13555 SE 36TH STREET, SUITE 300  
BELLEVUE, WA 98006  
*ATTORNEYS FOR DEFENDANT NORTHWEST TRUSTEE SERVICES, INC.*

WELLS FARGO BANK N.A.  
2324 OVERLAND AVE  
BILLINGS MT 59102

WELLS FARGO BANK N.A.  
C/O MM  
2324 OVERLAND AVE  
BILLINGS MT 59102

WELLS FARGO BANK N.A.  
FORECLOSURE NOTICES B6955-01J  
2324 OVERLAND AVENUE  
BILLINGS MT 59102



OAK RIDGE YELM HOMEOWNER'S ASSOCIATION  
C/O RUTH MEENK  
5120 KLAHANIE DR NW  
OLYMPIA WA 98502

OAK RIDGE YELM HOMEOWNER'S ASSOCIATION  
PO BOX 12166  
OLYMPIA WA 98508

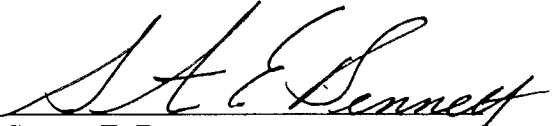
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS NOMINEE  
P.O. BOX 2026  
FLINT MI 48501-2026

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.  
1901 E VOORHEES STREET, SUITE C  
DANVILLE IL 61834

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS NOMINEE  
C/O PIERCE COMMERCIAL BANK  
1722 SOUTH UNION AVENUE  
TACOMA WA 98405

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

DATED this 2nd day of March, 2015 at Newport Beach, California.

  
Steven E. Bennett